

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE	§	
PETITION OF REGINALD W.	§	No. 123, 2010
JENKINS FOR A WRIT OF	§	
MANDAMUS	§	

Submitted: March 15, 2010

Decided: April 5, 2010

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 5th day of April 2010, having considered the petition for a writ of mandamus filed by Reginald W. Jenkins, the answer and motion to dismiss filed by the State of Delaware, and the Superior Court docket sheet in the underlying criminal case, it appears to the Court that:

(1) A year ago, on March 24, 2009, Jenkins filed a motion for correction of illegal sentence in the Superior Court. The Superior Court took no action on the motion. On October 13, 2009, Jenkins filed a letter inquiring as to the status of the motion.

(2) On March 4, 2010, Jenkins filed a petition for a writ of mandamus seeking to compel the Superior Court to rule on the still-undecided motion for correction of illegal sentence. On March 5, 2010, the Superior Court ruled on Jenkins' motion. The docket entry memorializing that action states:

Upon consideration of defendant's motion for correction of illegal sentence, prior record, plea agreement entered, review of the Delaware Code, and the sentence imposed upon the defendant; now therefore, it is ordered that defendant's motion for correction of illegal sentence is granted as follows: as to IK-01-04-0422 shall be modified at a sentence review to be scheduled . . . for Friday, March 19, 2010 at 9:00 a.m.¹

The next docket entry states that the March 19, 2010 sentence review was continued at "defendant's request."²

(3) A writ of mandamus is designed to compel relief when the trial court has manifested an arbitrary failure or refusal to perform a nondiscretionary duty and no other remedy is available at law.³ This Court will not issue a writ of mandamus "to compel a trial court to perform a particular judicial function, to decide a matter in a particular way, or to dictate the control of its docket."⁴

(4) In its answer and motion to dismiss, the State contends that Jenkins is not entitled to mandamus relief because the Superior Court ruled on the motion for correction of illegal sentence on March 5, 2010. The State suggests that the writ of mandamus should be dismissed as moot.

¹ See docket at 26, *State v. Jenkins*, Del. Super., Cr. ID No. 0104012963 (March 5, 2010) (granting motion and scheduling sentence review).

² See docket at 27, *State v. Jenkins*, Del. Super., Cr. ID No. 0104012963 (March 19, 2010) (continuing sentence review).

³ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

⁴ *Id.*

(5) The State does not offer any explanation for the passage of nearly one year between the filing date of Jenkins' sentence correction motion on March 24, 2009 and the issuance of the Superior Court's order on March 5, 2010. Clearly, absent extraordinary circumstances not apparent here, a delay of this length is inconsistent with the judiciary's responsibility to timely dispose of a matter that is ripe for decision.

(6) Under the present circumstances, there is no basis for the issuance of a writ of mandamus in this case. Accordingly, Jenkins' petition for a writ of mandamus must be dismissed. To the extent Jenkins has experienced inexcusable delay on his sentence correction motion, however, fundamental fairness requires that the motion receive priority consideration.⁵

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁵ The Court does not express or imply any view as to the merit of the motion.